



General Assembly

January Session, 2005

Amendment

LCO No. 6534

HB0505706534HDO

Offered by:

REP. GREEN, 1st Dist.

REP. FARR, 19th Dist.

To: Subst. House Bill No. 5057

File No. 600

Cal. No. 441

**"AN ACT CONCERNING THE DEPARTMENT OF CHILDREN AND
FAMILIES AND CHILD ABUSE OR NEGLECT PROCEEDINGS."**

1 Strike everything after the enacting clause and substitute the
2 following in lieu thereof:

3 Section 1. Section 17a-101k of the general statutes is repealed and
4 the following is substituted in lieu thereof (*Effective October 1, 2005*):

5 (a) The Commissioner of Children and Families shall maintain a
6 registry of the commissioner's findings of abuse or neglect of children
7 [reports received] pursuant to [sections 17a-101a to 17a-101d, inclusive,
8 and section 17a-103, and shall adopt regulations to implement the
9 provisions of this section, including] section 17a-101g, as amended by
10 this act, that conforms to the requirements of this section. The
11 regulations adopted pursuant to subsection (i) of this section shall
12 provide for the use of the registry on a twenty-four-hour daily basis to
13 prevent or discover abuse of children and the establishment of a
14 hearing process for any appeal by a person of the commissioner's

15 determination that such person is responsible for the abuse or neglect
16 of a child pursuant to subsection (b) of section 17a-101g, as amended
17 by this act. The information contained in the [reports] registry and any
18 other information relative to child abuse, wherever located, shall be
19 confidential, subject to such statutes and regulations governing their
20 use and access as shall conform to the requirements of federal law or
21 regulations. Any violation of this section or the regulations adopted by
22 the commissioner under this section shall be punishable by a fine of
23 not more than one thousand dollars or imprisonment for not more
24 than one year.

25 [(b) Notwithstanding the provisions of subsection (a) of this section,
26 the Commissioner of Children and Families shall disclose to the
27 Commissioner of Social Services, or his designee, registry information
28 necessary for the evaluation of the temporary family assistance
29 program operated by the Department of Social Services.]

30 (b) Upon the issuance of a recommended finding that an individual
31 is responsible for abuse or neglect of a child pursuant to subsection (b)
32 of section 17a-101g, as amended by this act, the commissioner shall
33 provide notice of the finding, by first class mail, not later than five
34 business days after the issuance of such finding, to the individual who
35 is alleged to be responsible for the abuse or neglect. The notice shall:

36 (1) Contain a short and plain description of the finding that the
37 individual is responsible for the abuse or neglect of a child;

38 (2) Inform the individual of the existence of the registry and of the
39 commissioner's intention to place the individual's name on the registry
40 unless such individual exercises his or her right to appeal the
41 recommended finding as provided in this section;

42 (3) Inform the individual of the potential adverse consequences of
43 being listed on the registry, including, but not limited to, the potential
44 effect on the individual obtaining or retaining employment, licensure
45 or engaging in activities involving direct contact with children and
46 inform the individual of the individual's right to administrative

47 procedures as provided in this section to appeal the finding; and

48 (4) Include a written form for the individual to sign and return,
49 indicating if the individual will invoke the appeal procedures
50 provided in this section.

51 (c) (1) Following a request for appeal, the commissioner or the
52 commissioner's designee shall conduct an internal review of the
53 recommended finding to be completed no later than thirty days after
54 the request for appeal is received by the department. The
55 commissioner or the commissioner's designee shall review all relevant
56 information relating to the recommended finding, to determine
57 whether the recommended finding is factually or legally deficient and
58 ought to be reversed. Prior to the review, the commissioner shall
59 provide the individual access to all relevant documents in the
60 possession of the commissioner regarding the finding of responsibility
61 for abuse or neglect of a child, as provided in subsection (m) of section
62 17a-28.

63 (2) The individual or the individual's representative may submit any
64 documentation that is relevant to a determination of the issue and
65 may, at the discretion of the commissioner or the commissioner's
66 designee, participate in a telephone conference or face-to-face meeting
67 to be conducted for the purpose of gathering additional information
68 that may be relevant to determining whether the recommended
69 finding is factually or legally deficient.

70 (3) If the commissioner or the commissioner's designee, as a result of
71 the prehearing review, determines that the recommended finding of
72 abuse or neglect is factually or legally deficient, the commissioner or
73 the commissioner's designee shall so indicate, in writing, and shall
74 reverse the recommended finding. The commissioner shall send notice
75 to the individual by certified mail of the commissioner's decision to
76 reverse or maintain the finding not later than five business days after
77 the decision is made. If the finding is upheld, the notice shall be made
78 in accordance with section 4-177 and shall notify the individual of the

79 right to request a hearing. The individual may request a hearing not
80 later than thirty days after receipt of the notice. The hearing shall be
81 scheduled not later than thirty days after receipt by the commissioner
82 of the request for a hearing, except for good cause shown by either
83 party.

84 (d) (1) The hearing procedure shall be conducted in accordance with
85 the procedures for contested cases pursuant to sections 4-177 to 4-181a,
86 inclusive.

87 (2) At the hearing, the individual may be represented by legal
88 counsel. The burden of proof shall be on the commissioner to prove
89 that the finding is supported by a fair preponderance of the evidence
90 submitted at the hearing.

91 (3) Not later than thirty days after the conclusion of the hearing, the
92 hearing officer shall issue a written decision to either reverse or uphold
93 the finding. The decision shall contain findings of fact and a conclusion
94 of law on each issue raised at the hearing.

95 (e) Any individual aggrieved by the decision of the hearing officer
96 may appeal the decision in accordance with section 4-183. Such
97 individual may also seek a stay of the adverse decision of the hearing
98 officer in accordance with subsection (f) of section 4-183.

99 (f) Following the issuance of a decision to uphold the finding and
100 absent any stay of that decision issued by the commissioner or the
101 court, the commissioner shall accurately reflect the information
102 concerning the finding in the child abuse and neglect registry
103 maintained pursuant to subsection (a) of this section and shall, in
104 accordance with section 17a-101g, as amended by this act, forward to
105 any agency or official the information required to be disclosed
106 pursuant to any provision of the general statutes.

107 (g) Any individual against whom a finding of abuse or neglect was
108 substantiated prior to May 1, 2000, and who has not previously
109 appealed such finding, may appeal such finding as provided in this

110 section.

111 (h) Records containing unsubstantiated findings shall remain
112 sealed, except that such records shall be made available to department
113 employees in the proper discharge of their duties and shall be
114 expunged by the commissioner five years from the completion date of
115 the investigation if no further report is made about the individual
116 subject to the investigation, except that if the department receives more
117 than one report on an individual and each report is unsubstantiated,
118 all reports and information pertaining to the individual shall be
119 expunged by the commissioner five years from the completion date of
120 the most recent investigation.

121 (i) Not later than July 1, 2006, the Commissioner of Children and
122 Families shall adopt regulations, in accordance with the provisions of
123 chapter 54, to implement the provisions of this section.

124 Sec. 2. Section 17a-101g of the general statutes is repealed and the
125 following is substituted in lieu thereof (*Effective October 1, 2005*):

126 (a) Upon receiving a report of child abuse or neglect, as provided in
127 sections 17a-101a to 17a-101c, inclusive, or section 17a-103, in which
128 the alleged perpetrator is (1) a person responsible for such child's
129 health, welfare or care, (2) a person given access to such child by such
130 responsible person, or (3) a person entrusted with the care of a child,
131 the Commissioner of Children and Families, or the commissioner's
132 designee, shall cause the report to be classified and evaluated
133 immediately. If the report contains sufficient information to warrant an
134 investigation, the commissioner shall make the commissioner's best
135 efforts to commence an investigation of a report concerning an
136 imminent risk of physical harm to a child or other emergency within
137 two hours of receipt of the report and shall commence an investigation
138 of all other reports within seventy-two hours of receipt of the report.
139 The department shall complete any such investigation within thirty
140 calendar days of receipt of the report. If the report is a report of child
141 abuse or neglect in which the alleged perpetrator is not a person

142 specified in subdivision (1), (2) or (3) of this subsection, the
143 Commissioner of Children and Families shall refer the report to the
144 appropriate local law enforcement authority for the town in which the
145 child resides or in which the alleged abuse or neglect occurred.

146 (b) The investigation shall include a home visit at which the child
147 and any siblings are observed, if appropriate, a determination of the
148 nature, extent and cause or causes of the reported abuse or neglect, a
149 determination of the person or persons suspected to be responsible for
150 such abuse or neglect, the name, age and condition of other children
151 residing in the same household and an evaluation of the parents and
152 the home. The report of such investigation shall be in writing. The
153 investigation shall also include, but not be limited to, a review of
154 criminal conviction information concerning the person or persons
155 alleged to be responsible for such abuse or neglect and previous
156 allegations of abuse or neglect relating to the child or other children
157 residing in the household or relating to family violence. After an
158 investigation into a report of abuse or neglect has been completed, the
159 commissioner shall determine, based upon a standard of reasonable
160 cause, whether a child has been abused or neglected, as defined in
161 section 46b-120. If the commissioner determines that abuse or neglect
162 has occurred, the commissioner shall also determine whether: (1)
163 There is an identifiable person responsible for such abuse or neglect;
164 and (2) such identifiable person poses a risk to the health, safety or
165 well-being of children and should be recommended by the
166 commissioner for placement on the child abuse and neglect registry
167 established pursuant to section 17a-101k, as amended by this act. If the
168 commissioner has made the determinations in subdivisions (1) and (2)
169 of this subsection, the commissioner shall issue notice of a
170 recommended finding to the person suspected to be responsible for
171 such abuse or neglect in accordance with section 17a-101k, as amended
172 by this act.

173 (c) Except as provided in subsection (d) of this section, no entry of
174 the recommended finding shall be made on the child abuse or neglect
175 registry and no information concerning the finding shall be disclosed

176 by the commissioner pursuant to a check of the child abuse or neglect
177 registry or request for information by a public or private entity for
178 employment, licensure, or reimbursement for child care purposes
179 pursuant to programs administered by the Department of Social
180 Services or pursuant to any other general statute that requires a check
181 of the child abuse or neglect registry until the exhaustion or waiver of
182 all administrative appeals available to the person suspected to be
183 responsible for the abuse or neglect, as provided in section 17a-101k, as
184 amended by this act.

185 (d) If the child abuse or neglect resulted in or involves (1) the death
186 of a child; (2) the risk of serious physical injury or emotional harm of a
187 child; (3) the serious physical harm of a child; (4) the arrest of a person
188 due to abuse or neglect of a child; (5) a petition filed by the
189 commissioner pursuant to section 17a-112 or 46b-129; or (6) sexual
190 abuse of a child. Entry of the recommended finding may be made on
191 the child abuse or neglect registry and information concerning the
192 finding may be disclosed by the commissioner pursuant to a check of
193 the child abuse or neglect registry or request for information by a
194 public or private entity for employment, licensure, or reimbursement
195 for child care purposes pursuant to programs administered by the
196 Department of Social Services or pursuant to any other general statute
197 that requires a check of the child abuse or neglect registry, prior to the
198 exhaustion or waiver of all administrative appeals available to the
199 person suspected to be responsible for the abuse or neglect as provided
200 in section 17a-101k, as amended by this act.

201 [(c)] (e) If the Commissioner of Children and Families, or [his] the
202 commissioner's designee, has probable cause to believe that the child
203 or any other child in the household is in imminent risk of physical
204 harm from [his] the child's surroundings and that immediate removal
205 from such surroundings is necessary to ensure the child's safety, the
206 commissioner, or [his] the commissioner's designee, shall authorize
207 any employee of the department or any law enforcement officer to
208 remove the child and any other child similarly situated from such

209 surroundings without the consent of the child's parent or guardian.
210 The commissioner shall record in writing the reasons for such removal
211 and include such record with the report of the investigation conducted
212 under subsection (b) of this section.

213 [(d)] (f) The removal of a child pursuant to subsection [(c)] (e) of this
214 section shall not exceed ninety-six hours. During the period of such
215 removal, the commissioner, or [his] the commissioner's designee, shall
216 provide the child with all necessary care, including medical care,
217 which may include an examination by a physician or mental health
218 professional with or without the consent of the child's parents,
219 guardian or other person responsible for the child's care, provided
220 reasonable attempts have been made to obtain consent of the child's
221 parents or guardian or other person responsible for the care of such
222 child. During the course of a medical examination, a physician may
223 perform diagnostic tests and procedures necessary for the detection of
224 child abuse or neglect. If the child is not returned home within such
225 ninety-six-hour period, with or without protective services, the
226 department shall proceed in accordance with section 46b-129.

227 Sec. 3. Subsection (c) of section 17a-28 of the general statutes is
228 repealed and the following is substituted in lieu thereof (*Effective*
229 *October 1, 2005*):

230 (c) When information concerning an incident of abuse or neglect has
231 been made public or when the commissioner reasonably believes
232 publication of such information is likely, the commissioner or [his] the
233 commissioner's designee may disclose, with respect to an investigation
234 of such abuse or neglect: (1) Whether the department has received a
235 report in accordance with sections 17a-101a to 17a-101c, inclusive, or
236 section 17a-103, and (2) in general terms, any action taken by the
237 department, provided (A) the names or other individually identifiable
238 information of the minor victim or other family member [shall not be]
239 is not disclosed, [notwithstanding such individually identifiable
240 information is otherwise available] and (B) the name or other
241 individually identifiable information of the person suspected to be

242 responsible for the abuse or neglect is not disclosed unless the person
243 has been arrested for a crime due to such abuse or neglect.

244 Sec. 4. Subsection (f) of section 17a-28 of the general statutes is
245 repealed and the following is substituted in lieu thereof (*Effective*
246 *October 1, 2005*):

247 (f) The commissioner or the commissioner's designee shall, upon
248 request, promptly provide copies of records, without the consent of a
249 person, to (1) a law enforcement agency, (2) the Chief State's Attorney
250 or the Chief State's Attorney's designee or a state's attorney for the
251 judicial district in which the child resides or in which the alleged abuse
252 or neglect occurred or the state's attorney's designee, for purposes of
253 investigating or prosecuting an allegation of child abuse or neglect, (3)
254 the attorney appointed to represent a child in any court in litigation
255 affecting the best interests of the child, (4) a guardian ad litem
256 appointed to represent a child in any court in litigation affecting the
257 best interests of the child, (5) the Department of Public Health, which
258 licenses any person to care for children for the purposes of
259 determining suitability of such person for licensure, subject to the
260 provisions of sections 17a-101g and 17a-101k, as amended by this act,
261 (6) any state agency which licenses such person to educate or care for
262 children pursuant to section 10-145b or 17a-101j, subject to the
263 provisions of sections 17a-101g and 17a-101k, as amended by this act,
264 concerning nondisclosure of findings of responsibility for abuse and
265 neglect, (7) the Governor, when requested in writing, in the course of
266 the Governor's official functions or the Legislative Program Review
267 and Investigations Committee, the committee of the General Assembly
268 on judiciary and the committee of the General Assembly having
269 cognizance of matters involving children when requested in the course
270 of such committees' official functions in writing, and upon a majority
271 vote of said committee, provided no names or other identifying
272 information shall be disclosed unless it is essential to the legislative or
273 gubernatorial purpose, (8) a local or regional board of education,
274 provided the records are limited to educational records created or
275 obtained by the state or Connecticut-Unified School District #2,

276 established pursuant to section 17a-37, and (9) a party in a custody
277 proceeding under section 17a-112, or section 46b-129, in the Superior
278 Court where such records concern a child who is the subject of the
279 proceeding or the parent of such child. A disclosure under this section
280 shall be made of any part of a record, whether or not created by the
281 department, provided no confidential record of the Superior Court
282 shall be disclosed other than the petition and any affidavits filed
283 therewith in the superior court for juvenile matters, except upon an
284 order of a judge of the Superior Court for good cause shown. The
285 commissioner shall also disclose the name of any individual who
286 cooperates with an investigation of a report of child abuse or neglect to
287 such law enforcement agency or state's attorney for purposes of
288 investigating or prosecuting an allegation of child abuse or neglect.
289 The commissioner or the commissioner's designee shall, upon request,
290 subject to the provisions of sections 17a-101g and 17a-101k, as
291 amended by this act, promptly provide copies of records, without the
292 consent of the person, to (A) the Department of Public Health for the
293 purpose of determining the suitability of a person to care for children
294 in a facility licensed under sections 19a-77 to 19a-80, inclusive, 19a-82
295 to 19a-87, inclusive, and 19a-87b, and (B) the Department of Social
296 Services for determining the suitability of a person for any payment
297 from the department for providing child care.

298 Sec. 5. Section 17a-6a of the general statutes is repealed and the
299 following is substituted in lieu thereof (*Effective October 1, 2005*):

300 The Commissioner of Children and Families shall (1) require each
301 applicant for a position with the department to state in writing
302 whether such person has ever been convicted of a crime or whether
303 criminal charges are pending against such person at the time such
304 person submits an application, and (2) require each applicant to submit
305 to state and national criminal history records checks, in accordance
306 with section 29-17a. The commissioner shall also check the state child
307 abuse registry established pursuant to section 17a-101k, as amended
308 by this act, for the name of such applicant. [for perpetrator
309 information.]

310 Sec. 6. Subsection (b) of section 17a-114 of the general statutes is
311 repealed and the following is substituted in lieu thereof (*Effective*
312 *October 1, 2005*):

313 (b) (1) No child in the custody of the Commissioner of Children and
314 Families shall be placed with any person, unless such person is
315 licensed by the department. Any person licensed by the department
316 may be a prospective adoptive parent. The commissioner shall adopt
317 regulations, in accordance with the provisions of chapter 54, to
318 establish the licensing procedures and standards.

319 (2) The commissioner shall require each applicant for licensure
320 pursuant to this section and any person sixteen years of age or older
321 living in the household of such applicant to submit to state and
322 national criminal history records checks prior to issuing a license to
323 such applicant to accept placement of a child. Such criminal history
324 records checks shall be conducted in accordance with section 29-17a.
325 The commissioner shall also check the state child abuse registry
326 established pursuant to section 17a-101k, as amended by this act, for
327 the name of such applicant and for the name of any person sixteen
328 years of age or older living in the household of such applicant. [for
329 perpetrator information.]

330 Sec. 7. Subsection (a) of section 17b-749k of the general statutes is
331 repealed and the following is substituted in lieu thereof (*Effective*
332 *October 1, 2005*):

333 (a) The Commissioner of Social Services shall, within available
334 appropriations, require any person, other than a relative, providing
335 child care services to a child in the child's home who receives a child
336 care subsidy from the Department of Social Services to submit to state
337 and national criminal history records checks. The criminal history
338 records checks required pursuant to this subsection shall be conducted
339 in accordance with section 29-17a. The commissioner shall also request
340 a check of the state child abuse registry established pursuant to section
341 17a-101k, as amended by this act, [for perpetrator information.]

342 Sec. 8. Subsection (a) of section 19a-77a of the general statutes is
343 repealed and the following is substituted in lieu thereof (*Effective*
344 *October 1, 2005*):

345 (a) Any retail establishment in this state may establish a drop-in
346 supplementary child-care operation on the premises of such retail
347 establishment in accordance with the following requirements:

348 (1) The hours of operation may only be between six o'clock a.m. and
349 nine o'clock p.m.

350 (2) No child receiving care shall be less than three years or more
351 than ten years of age.

352 (3) A child may not receive more than two hours of care per day.

353 (4) The operation may immediately notify appropriate law
354 enforcement or state agencies if any child receiving care at such
355 operation is not picked up by a parent or guardian after three hours.

356 (5) A parent or guardian shall be on the premises at the retail
357 establishment at all times while the child is receiving care.

358 (6) The retail establishment shall provide a clean and safe area for
359 the drop-in supplementary child-care operation.

360 (7) At all times the operation shall provide (A) at least one child-care
361 staff person for every ten children, and (B) at least one child-care staff
362 person who is twenty years of age or older who has experience in child
363 care.

364 (8) The operation shall submit the names of all child-care staff to the
365 Commissioner of Public Health, who shall request a check of such
366 names from the state child abuse registry established pursuant to
367 section 17a-101k, as amended by this act, [for perpetrator information.]

368 Sec. 9. Subsection (c) of section 19a-80 of the general statutes is
369 repealed and the following is substituted in lieu thereof (*Effective*

370 *October 1, 2005*):

371 (c) The Commissioner of Public Health, within available
 372 appropriations, shall require each prospective employee of a child day
 373 care center or group day care home in a position requiring the
 374 provision of care to a child to submit to state and national criminal
 375 history records checks. The criminal history records checks required
 376 pursuant to this subsection shall be conducted in accordance with
 377 section 29-17a. The commissioner shall also request a check of the state
 378 child abuse registry established pursuant to section 17a-101k, as
 379 amended by this act, [for perpetrator information.] Pursuant to the
 380 interagency agreement provided for in section 10-16s, the Department
 381 of Social Services may agree to transfer funds appropriated for
 382 criminal history records checks to the Department of Public Health.
 383 The commissioner shall notify each licensee of the provisions of this
 384 subsection.

385 Sec. 10. Subsection (b) of section 19a-87b of the general statutes is
 386 repealed and the following is substituted in lieu thereof (*Effective*
 387 *October 1, 2005*):

388 (b) The Commissioner of Public Health, within available
 389 appropriations, shall require each initial applicant or prospective
 390 employee of a family day care home in a position requiring the
 391 provision of care to a child to submit to state and national criminal
 392 history records checks. The criminal history records checks required
 393 pursuant to this subsection shall be conducted in accordance with
 394 section 29-17a. The commissioner shall also request a check of the state
 395 child abuse registry established pursuant to section 17a-101k, as
 396 amended by; this act, [for perpetrator information.] The commissioner
 397 shall notify each licensee of the provisions of this subsection."

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2005</i>	17a-101k
Sec. 2	<i>October 1, 2005</i>	17a-101g

Sec. 3	<i>October 1, 2005</i>	17a-28(c)
Sec. 4	<i>October 1, 2005</i>	17a-28(f)
Sec. 5	<i>October 1, 2005</i>	17a-6a
Sec. 6	<i>October 1, 2005</i>	17a-114(b)
Sec. 7	<i>October 1, 2005</i>	17b-749k(a)
Sec. 8	<i>October 1, 2005</i>	19a-77a(a)
Sec. 9	<i>October 1, 2005</i>	19a-80(c)
Sec. 10	<i>October 1, 2005</i>	19a-87b(b)